

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION, CINCINNATI**

EVERETT W. WHISMAN, et al.	:	
Plaintiffs	:	Case No. C-1-02-406
	:	Judge Beckwith
v.	:	
ZF BATAVIA, LLC, et al.	:	JOINT MOTION TO MODIFY SCHEDULING ORDER TO CONTINUE TRIAL AND PRE-TRIAL CONFERENCE
	:	
Defendants.	:	
	:	
	* * * *	

Plaintiffs, Everett W. Whisman, et al. ("Plaintiffs"), and Defendants, ZF Batavia, LLC ("ZFB"), and Ford Motor Company ("Ford") (collectively, "Defendants"), hereby move to modify the scheduling order in this matter to continue the trial date and the related pre-trial deadlines. The trial is currently set for April 26, 2004, and the Final Pre-Trial/Settlement Conference is set for April 9, 2004. Under Fed. R. Civ. Pro. 16(b), a scheduling order may be modified for "good cause." The parties submit that there is good cause to continue these deadlines for several reasons.

First, the ownership of the Defendant ZF Batavia, LLC, where all fifteen Plaintiffs are currently employed, has very recently and significantly changed. The interest of ZF Transmission Technologies, LLC in the Defendant, ZF Batavia, LLC was transferred to Ford Transmissions Holding Company. In addition to the change in ownership, there has been a change in senior management of ZF Batavia, LLC, now known as Batavia Transmissions, LLC, in that there is a new President and a new Chief Financial Officer for

Batavia Transmissions. These individuals have no prior affiliation with ZF Batavia, LLC. This recent development may be material to this lawsuit because many of Plaintiffs' claims in this action concerned the change of plant ownership from Ford to ZF in 1998, and such ownership has now changed again. Also, this development, in conjunction with the rulings on summary judgment, may provide an opportunity for the parties to resolve the matter without resorting to trial.

In the event that this matter does proceed to trial given the significant changes at ZFB, a trial at the end of April would present a hardship for ZF Batavia. The Plaintiffs are fifteen of ZF Batavia's managers and a trial would necessitate the plaintiffs being absent from the ZFB facility for the trial. Further, senior management for ZFB would also have to be in attendance at such trial. All of the parties to this Motion would represent to this Court that having twenty or more of the managers and senior management of ZF Batavia at a trial in April would create an undue hardship upon ZF Batavia with respect to its ability to meet its operational commitments. These operational issues are magnified at this time due to the change in ownership, change in management, and scheduled product launch.

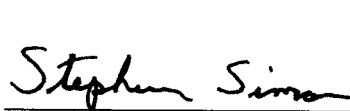
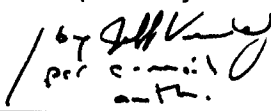
Second, the Court may recall that pursuant to the request of all parties the briefing schedule for this matter was previously extended by the Court. In connection with the Motion for Summary Judgment, collateral issues have arisen by reason of certain motions to strike various evidentiary materials. The motions for summary judgment, as well as Ford's and Plaintiffs' respective motions to strike, remain pending with the Court. Continuing the trial date will provide the Court more time to consider these motions without the press of an upcoming trial date. A continuance of the trial and pre-trial dates also will

allow the parties to begin, only if necessary, their considerable trial preparation after the Court's resolution of these motions. Further depending upon the rulings of the Court, there may be a narrowing of the issues and/or parties involved in this case.

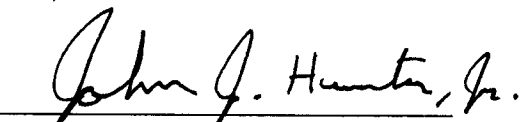
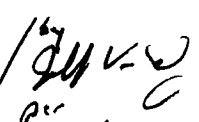
Third, trial counsel for Ford is scheduled to be in a two week trial in Lorain County, Ohio beginning on April 5 in the case of Watkins v. Ford, Case No. 02-CV-132780. While the trial dates do not directly conflict, the April 5 trial date does conflict with the pre-trial conference and with trial counsel's preparation for trial of the instant matter.

For all of these reasons, Plaintiffs and Defendants respectfully request that the Court modify the scheduling order to indefinitely continue the trial and Final Pre-Trial/Settlement Conference (and related pre-trial deadlines) or, alternatively, continue the trial and these deadlines for one hundred and twenty (120) days or to dates convenient to the Court.

Respectfully submitted,

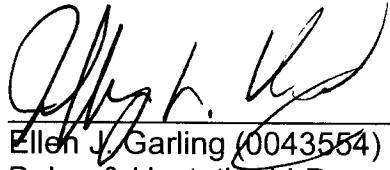
 /s/ 
per e-mail
auth.

David M. Cook (0023469)
Stephen A. Simon (0068268)
David M. Cook, LLC
22 West Ninth Street
Cincinnati, Ohio 45202
Phone: (513) 721-7500
Fax: (513) 721-1178
(Attorneys for Plaintiffs)

 /s/ 
per e-mail
auth.

John J. Hunter, Jr.
Hunter & Schank Co. LPA
One Canton Square
1700 Canton Avenue
Toledo, Ohio 43264
Phone: (419) 255-4300
Fax: (419) 255-9121
(Attorney for ZF Batavia)

-and-



Ellen J. Garling (0043554)
Baker & Hostetler LLP
Capitol Square, Suite 2100
65 East State Street
Columbus, OH 43215
(614) 228-1541
(614) 462-2616 (fax)
Trial Attorney for Ford Motor Co.

and

Jeffery L. VanWay (0069175)
Baker & Hostetler LLP
312 Walnut Street, Ste. 3200
Cincinnati, Ohio 45202
(513) 929-3400
(513) 929-0303 (fax)
Attorney for Ford Motor Co.